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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,755	02/09/2004	Blair Peet	PE14-004	8713

21567 7590 12/16/2004  
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SPOKANE, WA 99201

EXAMINER

O MALLEY, KATHRYN S

ART UNIT PAPER NUMBER

3749

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/775,755	Applicant(s) PEET ET AL. <span style="float: right;">CH</span>	
	Examiner Kathryn S. O'Malley	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/8/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6-9, 19-22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,098,735 to Yentis.
3. Yentis teaches a dryer for insertion into the cavity of a shoe and method of its use comprising framework 11, 14, and 15, heater 21, heated surface 23, second surface 17, heat shield 18 mounted between second surface 17 and heater 21 so that, in operation, the temperature of surface 17 will be lower than that of heated surface 23, and wherein the surfaces form airflow passageways with framework 14. Note column 1, line 40- column 3, line 19 and Figures 3 and 4.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yentis.

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6. Yentis does not define the temperature difference that will result between surfaces 23 and 17. However, such a limitation would have been obvious to one of ordinary skill in the art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Claims 3-5, 12-14, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yentis as applied to claim 1 above, and further in view of US Patent 5,289,642 to Sloan.

8. Yentis does not teach a dryer or method of its use having lower and upper cavities pivotally connected to one another. Sloan teaches a similar dryer comprising upper tube 34 connected to lower tube 46 via pivot member 40 and using this apparatus to dry a boot resting on the ground. Note column 4, lines 31-37 and Figure 2. As Sloan teaches that having upper and lower cavities pivotally connected to one another will enable a dryer similar to that taught by Yentis to reach the toes of a boot, thereby extending the possible uses of Yentis's dryer, it would have been obvious to one of ordinary skill in the art to modify the shoe dryer and method of Yentis with the upper and lower cavities taught by Sloan.

9. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yentis, as modified by Sloan, as applied to claim 14 above, and further in view of US Patent Publication 2001/0039991 to Swanson et al.

10. Yentis, as modified by Sloan, does not suggest an air gap to aid in shielding heat from surface 17. Swanson et al. teaches a heat shield 76 in combination with an air

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gap. Note paragraph 0051, lines 1-12. As Swanson et al. teaches that a heat shield in combination with an air gap will result in a greater dissipation of heat than a heat shield alone, it would have been obvious to one of ordinary skill in the art to modify the heat shield of Yentis with the heat shield in combination with an air gap, as taught by Swanson et al.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Dolist, and Tseng teach similar shoe drying apparatus and methods.

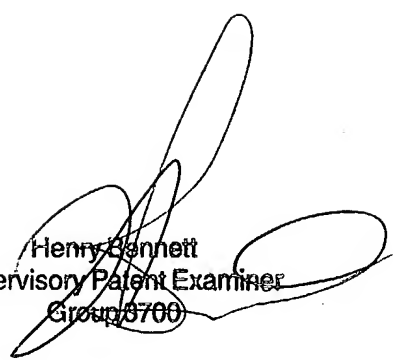
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (571)272-4879. The examiner can normally be reached on M-F (9:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KSO



Henry Bennett  
Supervisory Patent Examiner  
Group 3700